

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

DELTORIA GALLANT,

Plaintiff,

v.

**CIVIL ACTION NO.: 3:17-CV-136
(GROH)**

**MATTRESS GIANT CORP.,
d/b/a MATTRESS FIRM,**

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

Currently pending before the Court is a Report and Recommendation ("R&R") issued by United States Magistrate Judge Robert W. Trumble. ECF No. 7. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Trumble for submission of an R&R. On December 1, 2017, Magistrate Judge Trumble issued his R&R recommending that this Court dismiss without prejudice the Plaintiff's complaint and deny as moot her application to proceed *in forma pauperis*.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, this Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge to which no objections are made. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file objections in a timely manner constitutes a waiver of *de novo* review and a plaintiff's right to appeal this Court's order. 28 U.S.C. § 636(b)(1)(C); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

In this case, pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule 72(b) of the Federal Rules of Civil Procedure, objections to Magistrate Judge Trumble's R&R were due within fourteen days after being served with a copy of the same. The R&R was sent to the Plaintiff by certified mail, return receipt requested, on December 1, 2017. ECF No. 7. The Plaintiff accepted service on December 7, 2017. ECF No. 8. To date, no objections have been filed. Accordingly, the Court will review the R&R for clear error.

Upon consideration, the Court finds that it is without jurisdiction to consider the Plaintiff's claims because she has not exhausted the administrative procedures enumerated in 42 U.S.C. § 2000e-5(b).

Accordingly, upon review and finding no error, the Court **ORDERS** Magistrate Judge Trumble's Report and Recommendation [ECF No. 7] be **ADOPTED** for the reasons more fully stated therein. The Court hereby **ORDERS** that the Plaintiff's complaint [ECF No. 1] be **DISMISSED WITHOUT PREJUDICE**. The Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* [ECF No. 2] is **DENIED AS MOOT**.

The Court **DIRECTS** the Clerk to strike this case from the active docket and transmit a copy of this Order to the *pro se* Plaintiff by certified mail, return receipt requested.

DATED: December 22, 2017



GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE